



Current Irish Life Trust Forms

LIFE ADVISORY SERVICES

We advise that your client seeks professional tax and legal advice as the information given is a guideline only and does not take into account your client's particular circumstances.

Using an Irish Life trust form when effecting a life assurance plan is a way of nominating a beneficial owner for the proceeds of the contract, without giving them full control of the plan.

Below are some frequently asked questions about our current Irish Life trust forms which we hope you will find useful.

How does the current Irish Life Trust Form work?

On the current Irish Life Trust Form the plan owner is the sole trustee of the plan during his / her lifetime. The trust only comes into operation for the benefit of the beneficiaries after the death of the life assured / plan owner. The trustee, as plan owner, can change the beneficiaries, change the appointor, make partial encashments or alter the plan in any way he / she wants during his / her lifetime, in line with the terms of the trust.

While the life assured is still alive any living benefits from the contract i.e. automatic income, hospital cash cover, specified illness cover, will be paid to the life assured / plan owner.

On the death of the life assured, Irish Life will pay the plan proceeds to the appointed trustee, on production of a death certificate and satisfaction of all other claim requirements. The trustee is then legally bound to pay the proceeds to the nominated beneficiaries in the proportions set out in the trust.

The main difference between a death claim on a plan under trust and one where no trust is in place is that Irish Life do not have to wait for grant of probate or letters of administration before we can pay the claim – the clients wishes are dealt with in the trust.

It is very important to nominate a person who can appoint a trustee on the death of the life assured / trustee, because, if there is no surviving trustee or appointor, and the life assured dies, then the power to appoint a trustee or trustees falls to the personal representatives of the last surviving life assured. So we would have to wait for probate or administration before a trustee could be appointed. This nominated person can be changed at any time with just a letter from the Settlor.

Can you use the current Irish Life trust forms with all Irish Life plans?

The current Irish Life trust forms are only suitable for use with 'own life' proposals i.e. where the life assured and the plan owner are the same person. If a client wanted to provide for an alternative arrangement he / she would have to get independent legal advice.

Also, the current Irish Life trust forms can only be used with a proposal for a protection, savings or investment contract. They can never be used with a pension plan, pension term assurance or an income protection plan.

What are the advantages of using the current Irish Life Trust Forms?

- *Immediate payment of plan proceeds on death*: on the death of the life assured the proceeds are payable, on proof of death and satisfaction of all claims requirements, to the trustees for the benefit of the beneficiaries. There is therefore no delay in waiting for a Grant of Probate or Letters of Administration, assuming the trust form is correctly completed.
- *Protection from creditors*: the proceeds of a plan written under trust are protected from the individual's creditors, provided he / she did not set out to defraud the creditors by writing the life assurance plan under trust in the first place.
- *Flexibility*: it is possible, in some cases, to change the beneficiaries, and their share of the plan proceeds from time to time, but any change must be in line with the terms of the trust.
- *The life assured / settlor retains control over the plan during his / her lifetime* with the beneficiaries only becoming entitled to the proceeds on his / her death.
- In the case of business protection arrangements and inheritance tax planning it *ensures the correct tax treatment of the plan proceeds.*

Are there any disadvantages of using the current Irish Life Trust Forms?

- **A plan issued under trust cannot be used as collateral security for a loan. A contract issued in trust cannot, normally, be assigned.**
- The trust forms define the potential class of people who may benefit under the plan. While the settlor / trustee has the flexibility to change the people who may benefit from time to time he / she cannot go outside this class of beneficiary.
- It is very difficult to remove a plan from trust; if a client wishes to do this we always recommend they go to their solicitor as we would be concerned that the beneficiaries could look to hold Irish Life responsible for not honouring the trust in the future.

Who are the people named in the current Irish Life Trust Form?

- *Settlor*
This is the person providing the property or money which is to be subject to the trust, e.g. the plan owner / the life assured.
- *Trustee(s)*
Under our current trust forms the plan owner (the settlor) is the sole trustee initially. They are the legal owners of the property and hold and deal with the property in accordance with the terms of the trust for the benefit of the selected beneficiaries.
- *Beneficiaries*
These are nominated by the settlor. The beneficiaries will ultimately receive the proceeds of the plan subject to the trust in accordance with the terms of the trust.
- *Appointor*
The appointor is the person who, on the death of the settlor / trustee, has the power to appoint a new trustee to whom the proceeds of the plan will be paid for the benefit of the beneficiaries.

Who is the settlor?

The settlor is the life assured on the plan and is also the initial trustee.

What power does the settlor have under the current Irish Life trust form?

The settlor has the power to appoint a new or additional trustee and could also remove any such trustee.

Who are the trustees?

- The trustees are the legal owners of the plan and are directed to hold the plan for the benefit of the beneficiaries.
- While the trustees are the legal owners of the trust property i.e. the plan, they are not the beneficial owners, that is, they are in charge of the 'asset' but it cannot be used by them for their benefit.

What power do they have under the current Irish Life trust form?

- The trust form provides that the settlor is the initial trustee and gives him / her the power to appoint additional trustees if he / she so wishes. The current form does not make any provision for the appointment of additional trustees at the outset, but they may be added by deed at any time.
- Irish Life must be informed in writing of any such appointment of additional trustees.
- Irish Life can only deal with trustees, the legal owners of the plan, in all future events. We request that we be notified in writing by the trustees of any change in circumstances of the trust, such as any appointment, resignation, dismissal, removal, retirement, revocation or any other act of the settlor or trustees.

Who is the nominated person (Appointor) on the death of the settlor and what power does he / she have on the current Irish Life Trust Forms?

- Section 2 of the Flexible Trust Form, Section 4 of the Section 72 Trust Form and Section 5 of the Shareholders / Partners Trust Form makes provision for the appointment of a nominated person who has the power to appoint a trustee after the settlor's death, where there is no trustee available.
- It is important to note that if no 'Appointor' is nominated and the settlor / trustee dies, then the power to appoint a trustee falls to the personal representatives of the last surviving trustee. This will result in a delay in the payment of the proceeds of the contract as we would require grant of probate or letters of administration before a trustee can be appointed.
- The Appointor can be changed at any time during the life of the contract by a simple letter of instruction from the Settlor/s
- The appointor can also be the beneficiary on the plan AS LONG AS the beneficiary is over age 18, remember they have to complete a Deed Nominating a Trustee on the death of the life / lives assured.

Who are the beneficiaries?

- A beneficiary is a person for whom the plan is held by the trustees.
- The settlor can specify in the appropriate section of the trust form who the beneficiaries of the plan will be on the payment of a claim on his / her death.

What sort of Trust Forms do Irish Life currently have?

Flexible Trust – Single and Joint / Dual Life Forms

The class of beneficiary includes the settlor's wider family circle. The settlor can include other non – family members, once these are included as named beneficiaries on the original form.

The trust only comes into operation on the death of the settlor in the case of a single life contract or on the death of the survivor of the settlors or on the simultaneous deaths of both of the settlors in a joint / dual life case.

Shareholders / Partner's Trust – Single Life Form only

Used for plans taken out as part of a partnership or personal shareholder protection insurance arrangement. The beneficiaries are either the 'partners of the firm specified' or the 'shareholders of a specified company'. On Irish Life's current business protection trust forms the settlor has the option to change the beneficiaries to his / her spouse and family, but only if he / she is no longer a partner in the firm or shareholder in the company or all the other partners / shareholders are agreeable to the change.

Section 72 Trust – Single and Joint Life Last Survivor Forms

Used for inheritance tax planning with our Life Long Cover Inheritance Tax plan, the trust form forms part of the proposal. If no beneficiaries are specified, the life cover amount will be paid out to all beneficiaries of the estate, in their respective proportions. Where there is a surplus after paying relevant tax, this passes to the estate unless the settlor appoints otherwise.

My client's plan was issued last year and they have now told me that they want to put it in trust. Can I use the current Irish Life trust form?

No. All of the current Irish Life trust forms can only be used with a new proposal form before the contract is issued, they cannot be used to put an existing case into trust.

If your client wants to effect a Trust over an existing contract they will have to go to their own solicitor to draft a Deed Assigning the plan to Trust. Please be aware that this change of 'ownership' of the contract will be subject to stamp duty and exit tax if there is any value / growth on the contract.

I sent in a proposal form last week but the plan document is not issued yet. Can I submit a trust form at this stage?

Yes, you can use the current Irish Life trust form at any stage before the contract is issued. However, you must make sure that the date of the trust form is on or before the date of the proposal form.

Can I change the beneficiaries nominated in the Trust Form ?

Yes, within certain limits.

The different types of trust forms define the potential class of people who may benefit under the plan. While the settlor / trustee has the flexibility to change the people who may benefit from the plan proceeds he / she cannot go outside this class of beneficiary.

Advisory Services can provide the appropriate Deed to alter the beneficiaries under a plan.

Can I change the Appointor nominated in the Trust Form ?

Yes. The Settlor/s have the power at any time during their lives to alter the name of the appointor. They simply have to send us a letter giving us the name AND THE ADDRESS of the new appointor. We need the address of the appointor because, remember, we have to write to that person when the Settlor/s are deceased.

Can the beneficiary be the Appointor / nominated person in the Trust Form ?

Yes. The appointor can also be the beneficiary on the plan AS LONG AS the beneficiary is over age 18. This is because the appointor has to complete a Deed Nominating a Trustee on the death of the life / lives assured.

Can I remove the Trust from my plan ?

If a client wishes to remove their plan from Trust they will have to go to a solicitor who will draft a Deed to Revoke the Trust. The solicitor should also ensure the client understands the implications of this change, having regard to their needs.

If I put a plan in trust using the current Irish Life trust form does the beneficiary still have to pay tax on the proceeds?

Yes, exit tax will still be deducted, if appropriate, from the proceeds of the life assurance plan before they are paid to the trustees. The trustees will then be responsible for ensuring that any Capital Acquisitions Tax payable by the beneficiaries of the trust is paid.

Where exit tax is payable as a result of a claim on the death of the life assured, the amount of exit tax may be offset against any inheritance tax liability arising for the beneficiary of the plan on the plan proceeds.

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Irish Life

How do you complete the Irish Life Trust Form ?

1. The name and address of the Settlor (policy owner) is inserted along with the date of the proposal and the type of policy being proposed for e.g. Investment Bond this information is to ensure the trust can be linked with the correct policy.
2. Next the names of the beneficiaries and their share of the proceeds, e.g. "my daughter Patricia Smith as to 100% of the trust fund". Remember these can be changed by the trustee at any time within the terms of the Trust.
3. Then the NAME OF INDIVIDUAL WITH POWER TO APPOINT A TRUSTEE after the death of the Settlor - this is very important and is the most common section that is left blank!
4. Finally the trust will be ineffective if it is not signed, dated and the signature witnessed. The Trust Form must be dated on or before the date of the proposal form.

It is important that all sections are completed fully.

We have reproduced the Irish Life Flexible Trust Form Single Life in this document as an example. If you need any of the other Irish Life Trust Forms mentioned above please contact your Account Manager or Financial Advisor.

The image shows two overlapping copies of the 'Flexible Trust Single Life' form. The top form is the primary focus, displaying various sections for completion. Key sections include:

- Settlor Details:** Fields for Name, Address, and Date.
- Beneficiaries:** A table with columns for Name, Share, and Remarks.
- Trustee Appointment:** A section for naming an individual with power to appoint a trustee.
- Signatures:** Fields for the Settlor's signature and date, and a section for the signature of a witness.

 The bottom form is partially obscured and shows similar sections.

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